

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:19-CV-228-M

I.P., a minor child, by his grandfather and Next
Friend DONALD G. NEWSOME,
MICHAEL PRICE and CHANDLER
PRICE,

Plaintiffs,

v.

WAYNE COUNTY SHERIFF LARRY M.
PIERCE, in his official capacity; SERGEANT
SCHOOL RESOURCE OFFICER BRANDY
JONES, in her individual capacity;
SERGEANT SCHOOL RESOURCE
OFFICER SHATANA LATICE JONES, in her
individual capacity; LIEUTENANT SCHOOL
RESOURCE OFFICER WILLIAM KATES in
his individual capacity; SERGEANT SCHOOL
RESOURCE OFFICER MARION WALTON
in his individual capacity; WESTERN
SURETY COMPANY; MARK
ARMSTRONG, individually and as employee
for BUTTERFLY EFFECTS, LLC; BRITTNE
BROOKS, individually and as employee for
BUTTERFLY EFFECTS, LLC, BUTTERFLY
EFFECTS, LLC, JOHN DOE 1
and JOHN DOE 2,

Defendants.

ORDER

This matter is before the undersigned on (1) Defendants Butterfly Effects, LLC, Brittne Brooks, and Mark Armstrong's (the "Butterfly Defendants") Motion to Extend Time to File Response to Plaintiffs' Second Amended Complaint [DE-75] and (2) Defendants Sergeant

Brandy Jones, Sergeant Shatana Latice Jones, Lieutenant William Kates, and Sergeant Marion Walton (the “Officer Defendants”) Motion for Leave to File Defendant Officers’ Partial Motion to Dismiss and for the Filing to be Deemed Timely [DE-74]. After considering the motions, and determining that good cause exists, Defendants’ motions should be GRANTED.

It is therefore ordered that: (1) the deadline of the Butterfly Defendants to respond to Plaintiffs’ Second Amended Complaint is hereby extended to February 14, 2020, and the Butterfly Defendants’ motion to dismiss [DE-72] and accompanying memorandum of law [DE-73] are hereby deemed to be filed timely; (2) the deadline of the Officer Defendants to respond to Plaintiffs’ Second Amended Complaint is hereby extended to February 14, 2020, and the clerk is hereby directed to file their motion to dismiss and accompanying memorandum of law [DE-74 (attachments 1 and 2)], which shall be deemed to be filed timely; and (3) in light of the Second Amended Complaint [DE-63] and the abovementioned motions to dismiss, Defendants’ prior motions to dismiss [DE-26, 38, 49, 50] are now, accordingly, moot. *See Parsons v. North Carolina Dep’t of Revenue*, No. 5:18-cv-452-FL, 2019 WL 2181913, at *2 (E.D.N.C. May 20, 2019) (“Where an amended complaint has been filed with leave of court, motions to dismiss earlier complaints are denied as moot. Plaintiff’s original complaint is now ‘of no legal effect.’” (citing *Young v. City of Mount Ranier*, 238 F.3d 567, 573 (4th Cir. 2001))); *see also* 6 Charles A. Wright, et al., *Federal Practice and Procedure* § 1476 (3d ed. 1998) (“A pleading that has been amended under Rule 15(a) supersedes the pleading it modifies and remains in effect throughout the action unless it subsequently is modified. Once an amended pleading is interposed, the original pleading no longer performs any function in the case” (footnote omitted)).

It is further ordered that Plaintiffs are directed to file their oppositions to the Butterfly Defendants’ and the Officer Defendants’ motions to dismiss within fourteen (14) days of the entry

of this order, or inform the Court whether it should deem their previous oppositions [DE-58, 60] responsive to these motions.

It is further ordered that the abovementioned motions to dismiss will be marked submitted upon receipt of Plaintiffs' oppositions or response, and no reply briefs will be permitted.

So ordered this the 20th day of February, 2020.



RICHARD E. MYERS II
UNITED STATES DISTRICT JUDGE